

From: Chris Welsh
To: Microsoft ATR,piu@doj.ca.gov@inetgw
Date: 11/6/01 4:38pm
Subject: Regarding the Microsoft Settlement

United States Department of Justice:
State Attorneys General:
United States District Judge Colleen Kollar-Kotelly:

I object to the proposed Microsoft settlement. I believe that it will require too much government involvement and its enforcement will be too expensive. I doubt that it will correct the damage done by Microsoft or cause them to reform their behavior.

I propose a simpler, cheaper remedy which will be effective and fair: Revoke some of Microsoft's patents and copyrights. Give them back to their rightful owners or to the public.

This remedy would return the competitive system to its natural state by freeing Microsoft's competitors to produce interoperable products without the threat of lawsuits. It would also strongly deter future anticompetitive acts by entities which value their patent and copyright privileges.

This remedy would be fair because it would both reduce Microsoft's ability to profit from their crimes and seize the assets used as tools to commit those crimes. The value of many of Microsoft's works was created mainly by depriving consumers of any alternative choices. Consumers and computer vendors should be allowed the right to freely duplicate the existing Microsoft works. Those works are inferior to the work which would have been produced in an freely competitive marketplace.

It would be trivial to implement this remedy. The court would simply select an appropriate set of patents and copyrights, declare them void, and refuse to enforce them. The selection could be limited to only those patents and copyrights directly involved in criminal acts, or the court could deny Microsoft all patent and copyright privileges for some period of time.

As a general rule, an anticompetitive monopolist should never be granted extra power to prevent competition through patent and copyright. To the contrary, a market entity's access to legalized monopoly protection should be inversely proportional to its size. This would lead to a stable market of medium sized producers and would maximize competition and innovation.

Finally, I want to suggest that every computing product or service offered for sale, whether from Microsoft or not, should be accompanied by a warranty [see note 1]. The warranty should clearly document the product's input and output, including the type, purpose, and format of all files and network resources used. While this is not currently law, the court should require it of Microsoft from now on.

note 1: Because source code describes exactly what a program does, unobfuscated source code should be considered a sufficient warranty for software products.

Thank you for your good work. I hope you are able to find a fair solution in the best interest of society.

Sincerely,
Chris Welsh
Sunnyvale California